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OFFICE OF INSPECTOR GENERAL
for the Millennium Challenge Corporation

**AUDIT OF COMPLIANCE
WITH PROCUREMENT
REQUIREMENTS BY THE
MILLENNIUM CHALLENGE
CORPORATION AND ITS
COMPACT COUNTRIES**

AUDIT REPORT NO. M-000-008-02-P
March 3, 2008

WASHINGTON, DC



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FROM THE AMERICAN PEOPLE

*Office of Inspector General
for the
Millennium Challenge Corporation*

March 3, 2008

The Honorable John J. Danilovich
Chief Executive Officer
Millennium Challenge Corporation
875 Fifteenth Street, N.W.
Washington, DC 20005

Dear Mr. Ambassador:

This letter transmits the Office of Inspector General's final report on the Audit of Compliance with Procurement Requirements by the Millennium Challenge Corporation and its Compact Countries. In finalizing the report, we considered your written comments on our draft report and included those comments in their entirety in Appendix II of this report.

The report contains five recommendations for corrective action. We consider that a management decision has been reached on all of the recommendations. Final action for the recommendations must be determined by MCC and we ask that we be notified of the MCC's actions.

Sincerely,

/s/

John M. Phee
Assistant Inspector General
Millennium Challenge Corporation

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SUMMARY OF RESULTS

This audit was conducted to determine whether the Millennium Challenge Corporation (MCC) and select Compact country Millennium Challenge Accounts (MCAs) complied with procurement requirements, specifically MCC's Program Procurement Guidelines/Procurement Agreement which govern the MCAs procurement operations. These guidelines define MCC's requirements for procurement based on MCC's principals of transparency and open competition and for contractor eligibility to receive MCA contracts based upon U.S. Federal Government and World Bank requirements. The aim of the contractor eligibility requirements is to prevent the award of contracts to firms or individuals associated with fraud, corruption, or terrorism by vetting potential contractors against ineligibility lists maintained by these organizations.

The three MCAs included in the Office of Inspector General's (OIG) site visits (Ghana, Armenia, and Honduras) complied with the selected key procurement provisions from MCC's Program Procurement Guidelines/Procurement Agreement by advertising bidding opportunities, issuing requests for proposals, conducting independent evaluation of the proposals, and documenting contracting actions. However, while each of the MCAs was aware of MCC contractor eligibility guidance, the MCAs only partially complied with the guidance. For instance, the MCAs could not satisfactorily demonstrate that each contractor selected by the OIG for review had been vetted against each of the sources listed in the MCC Program Procurement Guidelines/Procurement Agreement. At the time of our audit, MCC did not have in place a comprehensive written policy and procedures for determining contractor eligibility for use by the MCAs; the current policy in the Program Procurement Guidelines/Procurement Agreement established the general eligibility requirements, but did not clearly establish procedures for implementing it. For instance, the guidelines did not clearly identify each of the lists of ineligible contractors that should be used by the MCAs in vetting contractors and the method for documenting the vetting results. As a result of the identified weaknesses, MCC cannot be assured that the MCAs are awarding contracts to only eligible parties. A comprehensive MCC policy on vetting contractors would highlight the importance of ensuring contractor eligibility and would assist the MCAs in properly carrying out their review of potential contractors (see page 5).

Also, the vetting lists used by one of the MCAs differed between the procurement and fiscal functions, whereas a parallel system of eligibility checks should exist. Without the same lists being used during the vetting process, an ineligible contractor could potentially receive payment even if barred from doing so (see page 8). Finally, none of the three MCAs had a Procurement Operations Manual in place to define internal controls within procurement operations and among the responsible parties. Chief among the controls to be addressed in such a manual was the process for checking contractor eligibility (see page 9).

The U.S. Agency for International Development's OIG is making five recommendations to address the three issues identified during its audit. The recommendations focus on strengthening the contractor eligibility process by recommending that MCC develop a comprehensive written policy defining the vetting process to be carried out by the MCAs (see page 8), requiring consistent vetting criteria be used by the procurement and fiscal

functions (see page 9), and analyzing the costs and benefits of establishing Procurement Operations Manuals (see page 10).

BACKGROUND

The Millennium Challenge Corporation (MCC) was established in January 2004 by the Millennium Challenge Act of 2003 to provide assistance to eligible developing countries that rule justly, invest in their people, and encourage economic freedom. This assistance is provided through compacts¹ between MCC, acting as a U.S. Government agency, and recipient countries' governments. As of the end of fiscal year 2007, MCC had signed Compacts with 14 countries.

Countries with signed Compacts solicit, award, and administer procurements for goods, works, and services based on the programs in their Compacts. These procurements are awarded and administered by the country through an "accountable entity" also known as the Millennium Challenge Account (MCA), the organization established by the country to manage the programs identified in its compact. MCC is not a party to these contracts.

The MCAs are required to ensure that all procurements with MCC funding comply with MCC procurement principles, which include open, fair, and competitive procedures used in a transparent manner; solicitations based on clear and accurate descriptions of goods and/or services to be acquired; contracts awarded only to qualified and capable suppliers/contractors; and only a commercially reasonable price paid for goods and/or services. Specifically, MCA procurements are required to be conducted according to policies and procedures set forth in the MCC Program Procurement Guidelines. MCC issued additional guidance papers for clarification on the Program Procurement Guidelines or for areas not covered in the Guidelines, such as the process for leasing office space by the MCAs.

Part of the procurement process includes MCA verification of contractors' eligibility to participate in MCC-funded procurements by checking the contractors' names against ineligibility lists. A contractor would be ineligible for MCA contracts if its name appears on any one of the lists. One of the purposes for verifying eligibility status of contractors and service providers is to ensure that MCC and its partner countries abide by applicable U.S. and international laws against providing financing and assistance to terrorists. Below are the lists from the Program Procurement Guidelines and MCC Guidance on Preparing the Technical Evaluation Reports that MCC required the MCAs to check for each contractor to determine contractor eligibility.

- World Bank Debarred List: This list contains names of contractors/service providers that were found to have engaged in fraudulent, corrupt, collusive, or coercive practices, and have been declared ineligible to be awarded contracts.
- The Excluded Party List System (EPLS): The U.S. General Services Administration maintains this list, which includes information regarding entities debarred, proposed for debarment, suspended, excluded, or otherwise declared ineligible to receive federal contracts, certain subcontracts, and certain federal assistance and benefits.

¹ A Compact is a multiyear agreement between the MCC and an eligible country to fund specific programs targeted at reducing poverty and stimulating economic growth.

- The U.S. Department of Treasury’s Office of Foreign Assets Control (OFAC) List: This list includes identifying information on individuals and businesses that have been sanctioned (for economic or trade reasons) based on U.S. foreign policy and national security goals. The U.S. Executive Order on Terrorist Financing (E.O. 13244, “Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism”) bars assistance to individuals or organizations with terrorist links and designates the responsibility for informing other entities in the public and private sector to OFAC.

AUDIT OBJECTIVE

This audit was conducted to determine whether MCC and selected Compact countries were complying with established procurement requirements, and in particular, the requirements for contractor eligibility for MCA contracts.

This audit was conducted to answer the following question:

Did the Millennium Challenge Corporation (MCC) and its Compact countries comply with MCC procurement requirements?

Appendix I contains a discussion of the audit’s scope and methodology.

AUDIT FINDINGS

The three MCAs tested--Ghana, Armenia, and Honduras--complied with the selected key procurement provisions in MCC's Program Procurement Guidelines/Procurement Agreement by advertising bidding opportunities, issuing requests for proposals, conducting independent evaluation of the proposals, and documenting contracting actions (see Appendix III). However, while each of the MCAs was aware of MCC contractor eligibility guidance, the MCAs only partially complied with the guidance. For instance, the MCAs could not satisfactorily demonstrate that contracts selected for OIG testing had been vetted against each of the sources listed in the MCC requirements. Detailed below are the specific findings and recommendations resulting from the OIG's audit work performed to determine compliance with procurement requirements.

Contractor Vetting Process Should Be Improved

Summary: OIG visits to three MCAs showed that more can be done to help ensure that an effective vetting process is carried out. MCC required the MCAs to check each contractor against the following lists to determine contractor eligibility: The World Bank Debarred list; The Excluded Party List System (EPLS); and The U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) List. The MCAs did not use each of the prescribed vetting lists from the Program Procurement Guidelines and MCC Guidance on Preparing Technical Evaluation Reports or did not sufficiently document the lists checked. Also, not all contractors were vetted, and vetting was not always done immediately before awarding the contract. The U.S. Government Accountability Office (GAO) *Standards for Internal Control in the Federal Government* discusses general guidance on internal controls that would help provide reasonable assurance that management's aims are being achieved. For contractor vetting, MCC management's aim should be to help ensure that only eligible firms received MCA contracts. To do so, GAO points to specific control activities—such as policies, procedures, techniques, and mechanisms—that can be designed and instituted by management. The deficiencies in the contractor vetting process occurred because MCC did not have a comprehensive policy on contractor vetting in place, although it was conducting research to develop and institute a policy for use by the MCAs. MCC's lack of comprehensive policy and procedures potentially could allow ineligible firms or individuals to receive MCA contracts.

MCC required the MCAs to check each contractor against the following lists to determine contractor eligibility:

- World Bank Debarred List: This list contains names of contractors/service providers that were found to have engaged in fraudulent, corrupt, collusive, or coercive practices, and have been declared ineligible to be awarded contracts.
- The Excluded Party List System (EPLS): The U.S. General Services Administration maintains this list, which includes information regarding entities debarred, proposed for debarment, suspended, excluded, or otherwise declared ineligible to receive federal contracts, certain subcontracts, and certain federal assistance and benefits.

- The U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) List: This list includes identifying information on individuals and businesses that have been sanctioned (for economic or trade reasons) based on U.S. foreign policy and national security goals. The U.S. Executive Order on Terrorist Financing (E.O. 13244, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism") bars assistance to individuals or organizations with terrorist links and designates the responsibility for informing other entities in the public and private sector to OFAC.

The MCAs did not use each of the prescribed vetting lists from the Program Procurement Guidelines and MCC Guidance on Preparing Technical Evaluation Reports or did not sufficiently document the lists checked. An analysis of the contractor vetting process among the three MCAs the OIG visited revealed the following issue areas that should be addressed to improve the effectiveness of the process. These issue areas involve clearly defining and documenting (1) the required vetting lists; (2) the method for documenting the vetting results; (3) which contracting methods require bidder vetting; (4) the points in the procurement process when vetting should occur; and (5) the procedures to be followed if a contractor appears on any of the ineligibility lists.

Interviews conducted with the MCAs showed that there was not always a clear understanding of the lists required to be used during the vetting process. When procurement and fiscal accountability officials were asked to specifically identify the lists that were required to be used during the vetting process, some were unable to identify the required lists or indicated that only the Excluded Party List System (EPLS) was used.

Further, the OIG could not independently verify which vetting lists were checked during contract vetting. In many cases, the specific lists used were not documented in the contract files. The file documentation that did exist typically consisted of the evaluation report with a footnote generally describing the lists checked (i.e., World Bank and U.S. Government), but did not specify which U.S. Government lists were used to verify contractor eligibility. In other instances, the file documentation consisted of a computer printout from the EPLS showing search results. Procurement officials also reported checking other lists as well, but did not have documentation supporting their assertions. Also, one of the MCAs evidenced its vetting of contractors by entering a date on the Procurement Performance Report signifying when the firm was found to be eligible, but it had no support in the files substantiating the lists checked and the reported date to reach this conclusion.

The OIG also determined that the MCAs did not determine contractor eligibility for each contracting method or contract type. For example, contractor vetting occurred in Quality and Cost-based Selection contracting methods, but vetting did not occur in other contracting methods such as Shopping. Shopping is a procurement method based on comparing price quotations from several sources, with a minimum of three, to assure competitive prices. Further, the contract documents involved in Shopping, such as the Invitation to Quote, or lease contract document, did not contain the typical references to the eligibility provisions. Vetting also did not occur when leasing space for an MCA.²

² An MCC official explained that "leasing" space is not technically defined as procurement, and therefore the eligibility requirements in the Program Procurement Guidelines and related procurement documents did not apply. Nevertheless, a lease is a contractual relationship

In addition, individual procurement officials within the MCAs checked contractor eligibility at differing times during the procurement process. At one MCA, the procurement official checked eligibility during proposal evaluation, which could result in the evaluation panel expending resources on reviewing an ineligible contractor. As explained to the OIG during its site visits, the MCAs typically have difficulty obtaining qualified and independent evaluation panel members; therefore, the optimal use of their time becomes even more important. In another instance, a procurement official did not reconfirm contractor eligibility before awarding the contract to the selected contractor after an initial confirmation, which could result in an ineligible contractor receiving a contract award.

Finally, the MCC did not have guidance defining the course of action should an MCA contractor be identified as ineligible. Guidance was lacking for appropriate measures to take with regard to the handling of payments or contract termination. An MCA official told us that he was not sure which officials at MCC should be contacted or how ineligible contractors should be handled. He further stated that his course of action would be to call MCC for guidance—a prudent action, but one that could result in inconsistent advice. A defined course of action would help ensure that the MCAs treat contractors consistently and fairly and would help further the transparency of the eligibility process.

MCC established its policies and procedures for use by the MCAs in conducting procurements in the Program Procurement Guidelines, dated May 22, 2007, and previously in individual country Procurement Agreements. Eligibility Section 1.8 provides the exceptions for contracting for MCC-funded projects. These exceptions include:

Any person or entity that has been blacklisted from participation in procurements funded with The World Bank assistance or debarred or suspended from participation in procurements funded by the United States Federal Government or otherwise prohibited by applicable United States law or Executive Order or United States policies including under any then-existing anti-terrorist policies shall be excluded from procurements awarded under the Compact.

While no U.S. Government-wide policy and procedures on vetting of contractors currently exist, the GAO *Standards for Internal Control in the Federal Government* discusses general guidance on internal controls that would help provide reasonable assurance that management's aims are being achieved. For contractor vetting, MCC management's aim should be to help ensure that only eligible firms received MCA contracts. GAO points to control activities—such as policies, procedures, techniques, and mechanisms—that can be designed and instituted by management to help in this endeavor.

The Compacts between the MCC and the grantee governments establish MCC's oversight role in the appropriate expenditure of the grants and provide penalties for inappropriate expenditures, such as those that would violate U.S. law or policy or would be contrary to U.S. national security interests. The deficiencies in the contractor vetting process were a result of MCC's lack of a comprehensive policy on contractor vetting, even though it was conducting research to develop and institute a policy for use by the

between the MCAs and a contractor that involves MCA funding, and it is prudent that the MCAs verify the eligibility of the lessor and that these actions should be a policy requirement as well.

MCA. In developing its policy and procedures, MCC should address (1) the vetting lists that are required to be checked by MCA officials, (2) the method for documenting the vetting results, (3) which contracting methods require bidder vetting, (4) the specific points during the procurement process when the vetting lists need to be checked, and (5) the procedures to be followed in the event that a contractor appears on the ineligibility lists. Currently, MCC vetting criteria are fragmented in numerous documents, and at times are incongruent and lack specificity. Criteria are found, for example, in Procurement Agreements, Program Procurement Guidelines, *Guidance on Preparing the Technical Evaluation Report*, Fiscal Accountability Plan, and contract clauses on contractor eligibility.

Without a clearly defined and documented vetting process, MCC management cannot be assured that the MCAs are effectively vetting their contractors. The existing weaknesses within the vetting process could potentially allow ineligible firms or individuals to receive U.S. taxpayer monies. The weaknesses could also result in reputation risk (i.e., negative public opinion regarding the business practices employed by MCC and the MCAs), which in turn could potentially result in a loss of funding for these organizations. The OIG is making three recommendations to strengthen the vetting process, improve consistency in the procurement documents regarding vetting requirements, and enhance MCC monitoring of MCA vetting.

Recommendation No. 1: We recommend that the vice president, Department of Compact Implementation, develop a comprehensive written policy and issue it to the Millennium Challenge Account Implementing Entities detailing (a) the required lists for use in vetting contractors, (b) the method for documenting in the contract files the vetting process undertaken and the results, (c) the contractors required to be vetted, (d) the points during the contracting process when vetting will occur, and (e) the actions to be taken when an individual/firm is found to be ineligible.

Recommendation No. 2: We recommend that the vice president, Department of Compact Implementation, reconcile the Procurement Agreement/Program Procurement Guidelines, contract clauses, and related documents so that the vetting requirements are consistent and the vetting requirements are clearly identified.

Recommendation No. 3: We recommend that the vice president, Department of Compact Implementation, revise the Procurement Performance Report to identify the points during the contracting process when vetting should occur to enable the Millennium Challenge Corporation to better monitor vetting activity.

MCC Criteria for Vetting of Contractors Should Be Consistent

When vetting contractors, one of the MCAs was not required to use the same criteria to determine contractor eligibility for MCA contracts and for payment of outstanding contractor invoices. Specifically, the Procurement Agreement/Program Procurement Guidelines required that procurement officials vet contractors against certain lists, including the World Bank Debarred List, but the Fiscal Accountability Plan did not require

that the World Bank Debarred List be used when processing contractor payments. The World Bank Debarred List identifies firms and individuals that are ineligible to be awarded contracts (and likewise receive payment) because they were found to have violated the fraud and corruption provisions of the Procurement Guidelines.

U.S. GAO *Standards for Internal Control in the Federal Government* describes internal control activities that help ensure that management's directives are carried out. Control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives. In this instance, MCC should have a control in place to help ensure the consistency of the vetting activities being carried out by the procurement and fiscal accountability functions. Such a control can help ensure the proper execution of vetting activities. An MCC official stated that a weakness in document control over revisions of the procurement and fiscal accountability documents resulted in the inconsistency in vetting requirements.

Inconsistencies in the process for vetting MCA contractors increase the risk that the MCAs could pay contractors who have previously committed fraud or corrupt practices or are otherwise ineligible to receive U.S. taxpayer monies.

Recommendation No. 4: We recommend that the vice president, Department of Compact Implementation, reconcile and establish consistent vetting requirements between the procurement and fiscal accountability functions.

MCC Should Evaluate the Need for Procurement Operations Manuals

None of the three MCAs visited by OIG had Procurement Operations Manuals (POMs) in place. Procurement agents are typically required to complete POMs as part of their contracted services. MCC encouraged the development of POMs in its MCC Guidance on Preparing the Procurement Operations Manual, issued May 11, 2007, and provided it to MCA participants during the MCC Procurement College held during May 2007. According to MCC guidance, the POM:

provides guidelines for the execution of procurement activities by describing the tasks and procedures to be executed to satisfy the MCC Program Procurement Guidelines by establishing the controls to be applied within the structure of the MCA entity and by defining the persons in charge of these controls in each step of the process. The manual also serves as an operational and reference tool for use on a daily basis by all parties to improve the effectiveness and transparency of the actions undertaken.

The guidance detailed specific items that should be included in the POM. One of the tasks/responsibilities cited in the guidance was checking contractor eligibility requirements, including who will be responsible for conducting the check, how the sources will be checked, how the outcomes will be recorded, and when the requirements will be checked. It also stated that the Procurement Agent Agreement established the deadline for the POM's completion, and MCC required that the procurement agent submit the POM to the MCA and MCC for approval.

The MCAs cited various reasons for the incomplete POMs, including unsatisfactory drafts of the POM that required revision. An MCA official pointed out that he believes that MCA's seasoned procurement officials already provide a compensating control, thereby reducing the need for a manual.

MCC encouraged the use of the POM as a tool to augment the Program Procurement Guidelines, and intended the MCAs to develop and adapt the POM to suit the operating environments of specific MCAs. The OIG believes that POMs help mitigate the potential risk for disruption in the continuity of MCA operations that result from staffing turnover, nonstandard approaches to procurements, and inconsistent actions by procurement officials. Nevertheless, interviews with MCC and the MCA personnel indicated that the POMs are not viewed as necessary; the fact that the MCAs also have been conducting procurement operations for some time without POMs furthers that view. The development of POMs has a cost in terms of MCA and MCC staff time in addition to the cost of the procurement agent, and MCC should determine whether the related benefit is warranted.

Recommendation No. 5: We recommend that the vice president, Department of Compact Implementation, conduct and document an analysis to determine whether the Millennium Challenge Account Procurement Operations Manuals provide added benefit in terms of operational controls, user necessity, and succession planning in relation to their associated costs. Additionally, if it determines that Procurement Operations Manuals would provide added controls at a reasonable cost, the Millennium Challenge Corporation should issue specific guidance to the Millennium Challenge Account Implementing Entities requiring that Procurement Operations Manuals be prepared by them or their agents.

EVALUATION OF MANAGEMENT COMMENTS

The Millennium Challenge Corporation (MCC) provided written comments to our draft report that are included in their entirety in Appendix II. In its response, the MCC agreed with each of the five recommendations in the draft report.

In response to Recommendation No. 1, MCC agreed with the recommendation and completed a comprehensive written policy entitled *Guidance on Excluded Parties Verification Procedures in MCA Entity Program Procurements*. MCC stated that the policy identifies each of the mandatory lists that are to be used by the Millennium Challenge Accounts (MCAs) when vetting contractors and that an expanded number of lists are required to be used in the process. To aid in documenting the results of the MCA vetting process, MCC stated that it developed a verification sheet for use by the MCAs. MCC also stated that the policy requires that the contractor eligibility verification procedures must be performed for all bids and proposals, including shopping and leases, and for all contractors, key personnel, and subcontractors before and during the contract term. It further defined when vetting will occur and the actions to be taken if a firm is found to be ineligible. Finally, MCC reported issuing the policy to MCA staff, MCC Resident Country Director teams, and MCC Headquarters officials. Based on these actions, we consider that a management decision has been reached for this recommendation.

In response to Recommendation No. 2, MCC agreed with the recommendation and stated that the *Guidance on Excluded Parties Verification Procedures in MCA Entity Program Procurements* adjusted the Program Procurement Guidelines and all documents used and referenced by the MCAs so vetting requirements are consistent and clearly identified. Based on these actions, we consider that a management decision has been reached for this recommendation.

In response to Recommendation No. 3, MCC agreed with the recommendation and stated that it is in the process of reviewing the Procurement Performance Report to address the OIG's concern and for further improving the report. MCC anticipates that its efforts will be completed by April 2008. Based on these actions, we consider that a management decision has been reached for this recommendation.

In response to Recommendation No. 4, MCC agreed with the recommendation and stated that it directed the *Guidance on Excluded Parties Verification Procedures in MCA Entity Program Procurements* to the Procurement Agent and Fiscal Agent at the MCA operations. MCC reported that the guidance will be used by the agents in their operations. Based on these actions, we consider that a management decision has been reached for this recommendation.

In response to Recommendation No. 5, MCC agreed with the recommendation and stated that it is in the process of conducting a cost/benefit analysis on the requirement for MCA Procurement Operations Manuals. It anticipates that a decision will be reached

by June 2008 as to whether the manual is warranted. Based on these actions, we consider that a management decision has been reached for this recommendation.

SCOPE AND METHODOLOGY

Scope

The assistant inspector general for the Millennium Challenge Corporation (MCC) conducted this audit of MCC and Millennium Challenge Account (MCA) compliance with procurement requirements in accordance with generally accepted government auditing standards.

In conducting this audit, the audit team assessed MCC and MCA adherence to select requirements of the procurement guidelines (including vetting contractor eligibility to receive MCA contracts) for contracts awarded by the MCAs during calendar years 2006 and 2007. The audit fieldwork was conducted from July 24 through October 30, 2007, at MCC Headquarters in Washington, DC, and at the MCAs in Accra, Ghana; Yerevan, Armenia; and Tegucigalpa, Honduras.

Methodology

In planning and performing the audit work, the audit team conducted interviews with MCC officials in the Department of Accountability/Fiscal Accountability as well as the Office of General Counsel. The team also met with Washington, DC, USAID officials to obtain an understanding of the process used to review contractor eligibility. During the site visits, interviews were held with the MCC resident country directors and/or deputy resident country directors; MCA officials, including the chief executive officers, procurement directors, and legal counsel; and MCA procurement agents and fiscal agents. These interviews were conducted to obtain information on various subjects relevant to the audit, for example, procurement operations, including organizational structure, roles and responsibilities, procurement guidelines, contracting activity, awarded contracts, and the contractor eligibility process.

In addition, the audit team performed the following steps:

- Judgmentally selected 45 contracts of an estimated 263 contracts for review from contracting reports provided by MCC officials, including competitive and single-source selection contracts, to determine whether the MCAs complied with key procurement requirements. Reviewed approximately \$146 million of approximately \$160 million in total contracts. The requirements tested included advertising, request for proposals, and proposal evaluation. It should be noted that the documents related to contracts valued at less than \$100,000 are permitted by the requirements to be written in the country's native language, so in certain cases the audit team members obtained document translation assistance from MCA officials.
- Reviewed contract files to identify the work performed by procurement officials to determine contractor eligibility to receive MCA contracts.
- Reviewed invoices to identify the work performed by the fiscal agents to determine contractor eligibility for payment by MCA.

- Traced dates found in the contracting files to the Procurement Performance Reports used by MCC to monitor MCA contracting activity on a spot-check basis to determine data accuracy.

MANAGEMENT COMMENTS



**MILLENNIUM
CHALLENGE
CORPORATION**
REDUCING POVERTY THROUGH GROWTH

MEMORANDUM

DATE: February 21, 2008

TO: John M. Phee
Assistant Inspector General, MCC

FROM: Michael Casella /s/
Acting Vice President,
Department of Administration and Finance, MCC

SUBJECT: Audit of Compliance with Procurement Requirements
Audit Report No. M-000-008-02-P

I have reviewed the audit findings contained in the referenced report which pinpoints areas of improvement to our Agency procurement guidelines and practices. I fully agree with each recommendation. Although the report's findings were based on analysis and sample techniques across only three MCA operations, namely Ghana, Armenia and Honduras, the areas of concern are consistent with my Agency's view in developing sound practices to maintain the strongest compliance with the US governing laws and practices.

The first audit finding under the subject title ***Contractor Vetting Process Should Be Improved***, includes three recommendations based upon review of the MCA's procurement practices.

Recommendation No 1: We recommend that the vice president, Department of Compact Implementation, develop a comprehensive written policy and issue it to the Millennium Challenge Account Implementing Entities detailing (a) the require lists for use in vetting contractors, (b) the method of documenting in the contract files the vetting process undertaken and the results, (c) the contractors required to be vetted, (d) the points during the contracting process when vetting will occur, and (e) the actions to be taken when an individual/firm is found to be ineligible.

MCC Action taken: The vice president, Department of Compact Implementation has completed a comprehensive written guidance policy entitled "Guidance on Excluded Parties Verification Procedures in MCA Entity Program Procurements" and is posted to the MCC website under

www.mcc.gov/procurement/partnercountries/guidancepapers.php. This guidance has been widely promulgated to the MCA staff principles, Resident Country Director teams and internal MCC Accountability staff to ensure that all parties are required to adhere to this guideline and is aware of its requirements. Contained in this guidance is the requirement for vetting procedures to be followed for “all bids and proposals” which include shopping and leases.

(a) Required List for vetting contractors:

This guidance paper not only adopts the IG recommendation of mandatory check to vet contractors against the World Bank Debarred List; the Excluded Party List System (EPLS); and the US Department of Treasury’s Office of Foreign Assets Control (OFAC) List it goes a step further and also now compels MCA entities to further check US Department of Commerce, Bureau of Industry and Security, Denied Persons List (DPL); US Department of Commerce, Bureau of Industry and Security, the Entity List; US State Department directorate of Defense Trade Controls, Debarred Parties List; and the US State Department, Terrorist Exclusion List.

(b) Method of documenting in the contract files the vetting process undertaken and the results:

The guidance paper provides the website link for each mandatory list to be checked for eligibility verification. It is noted that two of the lists, EPLS and the World Bank debarred list are searchable and provide a return of a positive or negative result which must be printed and retained. The other lists do not provide the convenience of a return result in a simple one sheet copy, but rather will return a listing for each search which must be verified. We instruct the MCAs to annotate the date on the attached verification sheet for these searches.

(c) The contractors required to be vetted:

The guidance paper clearly states that eligibility verification procedures must be performed during the evaluations of all bids and proposals for the MCA entity. Specifically, each contractor, key personnel and subcontractors must be verified prior to entering into any form of contract and continuing throughout the contract term periodically before issuing any payment to the contractor.

(d) The points during the contracting process when vetting will occur:

The guidance clearly states there could be two phases of this vetting, dependent upon the complexity of the procurement action. In complex and multi-stage procurements, the vetting will be performed during the beginning of the bid or proposal evaluation process. After completion by the technical review or evaluation panel and selection of the contractor to be awarded, a final vetting process will take place prior to the award of the contract. This vetting will include key personnel and subcontractors as well.

(e) The actions to be taken when an individual/firm is found to be ineligible:

Instructions in the guidance document are clear on this issue. If a positive adverse report is found on the contractor, the firm will be deemed to be ineligible and its bid or proposal will be rejected and the next eligible contractor will be examined for full eligibility

requirements. If the adverse report is returned on a proposed key personnel, the MCA shall either reject the bid or proposal or permit the proposed contractor to replace this person.

Recommendation No. 2: We recommend that the vice president, Department of Compact Implementation, reconcile the Procurement Agreement/Program Procurement Guidelines, contract clauses, and related documents so that the vetting requirement are consistent and the vetting requirements are clearly identified.

All corresponding Program Procurement Guidelines and documents used and referenced by the MCAs are adjusted for this new guidance directive.

Recommendations No. 3: We recommend that the vice president, Department of Compact Implementation, revise the Procurement Performance Report to identify the points during the contracting process when vetting should occur to enable the Millennium Challenge Corporation to better monitor vetting activity.

The Procurement Performance Report contains a specific column available for affirming the full vetting process in order to ensure that awareness of the vetting process has taken place prior to the contract award. The Procurement Directors and Procurement Advisors, who monitor these reports, are in the process of reviewing this report for further improvements and will take further steps not later than April 2008 to ensure the vetting procedures are fully captured in the report format.

The second audit finding under *MCC Criteria for Vetting of Contractors Should be Consistent* includes one recommendation.

Recommendation No.4: We recommend that the vice president, Department of Compact Implementation, reconcile and establish consistent vetting requirements between the procurement and fiscal accountability functions.

The guidance paper has been directed to both the Procurement Agent and the Fiscal Agent at the MCA operations. The Fiscal Agent has been instructed through a broad email promulgation of this new policy that they must incorporate this into their Fiscal Accountability Plan for operations. The attachment will be used by both the Procurement Agent and the Fiscal Agent and will be retained in each agents' respective files for audit compliance purposes.

The third audit finding under *MCC Should Evaluate the Need for Procurement Operations Manual* include one recommendation.

Recommendation No. 5: We recommend that the vice president, Department of Compact Implementation, conduct and document an analysis to determine whether the Millennium Challenge Account Procurement Operations Manuals provide added benefit in terms of operations controls, user necessity, and succession planning in relation to their associated costs. Additionally, if it determined that Procurement Operations Manuals would provide added controls at a reasonable cost, the Millennium Challenge Corporation should issue specific

guidance to the Millennium Challenge Account implementing Entities requiring that Procurement Operations Manuals be prepared by them and their agents.

The Accountability section has started the process of this analysis in considering the cost benefit of requiring the procurement operations manuals at this point in time for each of the implementation Compact Countries. We plan by June 2008 to come to a decision on the benefit vs. costs of this requirement and implement a procurement operations manual if warranted.

LIST OF CONTRACTS REVIEWED

Results of review of selected key provisions of MCC's Program Procurement Guidelines/Procurement Agreement

Sample Number	Contract Amount	Procurement Method Competitive?	Advertised?	Firms Solicited?	Evaluated by Independent Panel?	Procurement Documented?
1	3,279,000	Yes	Yes	Yes	Yes	Yes
2	25,532,820	Yes	Yes	Yes	Yes	Yes
3	50,354,670	Yes	Yes	Yes	Not Applicable (ongoing)	Yes
4	21,420,000	Yes	Yes	Yes	Yes	Yes
5	7,500	Not Required	Not Required	Not Required	Not Required	Yes
6	183,000	Yes	Not Required	Yes	Yes	Yes
7	29,850	Not Required	Not Required	Not Required	Not Required	Yes
8	500,000	Yes	Yes	Yes	Not Applicable (ongoing)	Yes
9	5,000	Yes	Not Required	Yes	Yes	Yes
10	8,000	Not Required	Not Required	Not Required	Not Required	Yes
11	35,000	Not Required	Not Required	Not Required	Not Required	Yes
12	40,000	Yes	Yes	Yes	Yes	Yes
13	44,000	Yes	Not Required	Yes	Yes	Yes
14	50,000	Yes	Not Required	Yes	Yes	Yes
15	3,000	Yes	Not Required	Yes	Yes	Yes
16	14,000	Yes	Not Required	Yes	Yes	Yes
17	15,670	Yes	Not Required	Yes	Yes	Yes
18	1,670,000	Yes	Yes	Yes	Yes	Yes
19	800,000	Yes	Yes	Yes	Not Applicable (ongoing)	Yes
20	140,000	Yes	Yes	Yes	Yes	Yes
21	450,000	Yes	Yes	Yes	Not Applicable (ongoing)	Yes
22	1,756,400	Yes	Yes	Yes	Yes	Yes
23	200,000	Yes	Yes	Yes	Yes	Yes
24	618,000	Yes	Yes	Yes	Yes	Yes
25	974,800	Yes	Yes	Yes	Not Applicable (ongoing)	Yes
26	2,625,300	Yes	Yes	Yes	Not Applicable (ongoing)	Yes
27	25,154	Yes	Not Required	Yes	Yes	Yes
28	34,545	Yes	Not Required	Yes	Yes	Yes
29	3,709	Yes	Not Required	Yes	Yes	Yes
30	20,455	Yes	Not Required	Yes	Yes	Yes
31	18,477,455	Yes	Yes	Yes	Yes	Yes
32	24,379	Yes	Not Required	Yes	Yes	Yes
33	23,485	Yes	Not Required	Yes	Yes	Yes
34	2,227	Yes	Not Required	Yes	Yes	Yes
35	253,333	Yes	Not Required	Yes	Yes	Yes
36	Not Available	Not Required	Not Required	Not Required	Not Required	Yes
37	1,994	Not Required	Not Required	Not Required	Not Required	Yes

APPENDIX III

38	5,240,000	Yes	Yes	Yes	Not Applicable (ongoing)	Yes
39	73,900	Yes	Yes	Yes	Not Applicable (ongoing)	Yes
40	5,285,000	Yes	Yes	Yes	Not Applicable (ongoing)	Yes
41	2,945,800	Not Required	Not Required	Not Required	Not Applicable (ongoing)	Yes
42	2,107,600	Not Required	Not Required	Not Required	Not Applicable (ongoing)	Yes
43	180,000	Not Required	Not Required	Not Required	Not Applicable (ongoing)	Yes
44	136,000	Not Required	Not Required	Not Required	Not Required	Yes
45	49,000	Yes	Not Required	Yes	Yes	Yes

Total \$145,640,046

Notes

- (1) Contract Amount includes estimated amounts for procurements that were not finalized at the time of our audit, i.e., ongoing.
- (2) Certain contracting methods, such as single source selection, by definition are non-competitive procurements. As such, typical competitive requirements, for example, advertising are not required.

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